

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Committee:		Kauaʻi Police Commission		Meeting Date	February 24, 2017
Location	Mo`ikeha Building – Meeting Room 2A/B			Start of Meeting: 9:00 a.m.	End of Meeting: 11:25 a.m.
Present	Chair Mary K. Hertog; Vice-Chair Gerald (Chip) Bahouth; Members: Catherine Adams, Kevin Mince, and Roy Morita Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Deputy County Attorney Peter Morimoto; Police Department: Assistant Chief Roy Asher; Assistant Chief of Police Bryson Ponce; Lieutenant Jon Takamura and Detective Christopher Calio.				
Excused	Commissioners Savita Agarwal and Donald (Moki) Okami.				
Absent					
SUBJECT		DISCUSSION			ACTION
Call To Order		Chair Hertog noted for the record that Commissioners Agarwal and Okami are excused from today’s meeting and sitting in for Chief Perry is Assistant Chief Roy Asher. Chief Perry and Deputy Chief Contrades are on Oahu attending a meeting and are also excused from today’s meeting.			Chair Hertog called the meeting to order at 9:00 a.m. with five (5) Commissioners present ascertaining a quorum.
Chair Comments		For information only, Chair Hertog provided copies of her testimony on House Bill No. 682 and Senate Bill No. 520 relating to the Composition of the Police Commissions.			
Approval of Minutes		Regular Open Session Minutes of January 27, 2017.			Ms. Adams moved to approve the meeting minutes of January 27, 2017. Mr. Morita seconded the motion. The motion carried 5:0.

SUBJECT	DISCUSSION	ACTION
Officers of the Month for January (Deferred on 1/27/17)	<p>Assistant Chief of Police Bryson Ponce of the Investigative Services Bureau read the recognition for Detective Chris Calio. Detective Calio was commended for his outstanding investigative skills and exemplary attention to duty that lead to the capture and arrest of two murder suspects. His willingness to extend extra effort in solving the crime brought closure to the victim’s family as well as gave a sense of security for the Westside community.</p> <p>Detective Calio thanked the SRT team members and the vice unit for their role in the investigation, noting that it is important for everyone to know that without these individuals, the investigation would not have been successful therefore their good work should not go unnoticed.</p> <p>Lieutenant Jon Takamura thanked the entire accreditation team for their hard work and commitment in getting the Kaua‘i Police Department accredited. He especially thanked Chief Perry for being the only Chief to follow through with the accreditation. While prior police chiefs have talked about it, Chief Perry was the only one who actually put his foot forward in wanting to do the accreditation and if it wasn’t for his persistence, the Kaua‘i Police Department would still not be an accredited organization.</p> <p>Assistant Chief of Police Roy Asher presented Detective Calio and Lieutenant Takamura each with a certificate of outstanding and exemplary service.</p>	
Briefing by Chief Procurement Officer Ernest Barreira on KPD’s procurement practices and regulations by	<p>Chair Hertog stated Mr. Barreira is here today to provide the Commission with an general overview of the County’s audit process and PCard program and to answer questions in reference to a County Council meeting that occurred a couple of weeks ago.</p> <p>Mr. Barreira explained that the Pcard program is one of the most innovative programs the County was able to pursue, but prior to the implementation of the Pcard program, the Purchasing Department had to execute roughly 8500 purchase orders per year, but with the Pcard program in place, the County departments have the capability of executing Pcard transactions for any purchases under \$1500.00. He stated that the Police Department has done an outstanding job in all areas of the procurement, especially with the Pcard process and so the specific finding that was identified was carefully responded to by him and he’ll have KPD’s Fiscal Officer Daurice Arruda</p>	

SUBJECT	DISCUSSION	ACTION
	<p>explain specifically what were the circumstances, noting it was not something that was governed by intentional oversight; it was a simple process that could not have been controlled because it was a billing error that resulted on a large onetime payment being drawn against the Pcard which alerted the Auditor of the finding.</p> <p>Chair Hertog asked how many organizations are assigned to a Pcard to which Mr. Barreira replied every department is slightly different. Ironically, some of the best internal controls are with the biggest departments as in the Police Department's case and as of now, no department heads are assigned to have a Pcard (which is great news).</p> <p>Chair Hertog asked what type of training does the individuals who authorized to do the Pcard transactions have to have and is it a recurring training to which Mr. Barreira replied it's a two-step training. The Pcard Administrator for the County is Donna Gabriel and she resides in the accounting division. Ms. Gabriel does the training on how to properly utilize the Pcard in terms of the center sweet (sic) application through First Hawaiian Bank. In addition to her training, the purchasing department also conducts its own continuous procurement training by the way of a Powerpoint (which he does himself) as well.</p> <p>Chair Hertog asked if once a year the auditors selects 40 random accounts to audit and then present its findings to County Council to which Mr. Barreira replied the preliminary findings are presented to the Administration in which the purchasing department responds appropriately and then they provide the findings which is part of the Comprehensive Audit to the County Council at the end of each year.</p> <p>Ms. Arruda explained that the mishap occurred when Ricoh inadvertently applied another department's check (payments) to KPD's account which made it appear to Ricoh that the department's invoices were all paid up. However, after reviewing the Pcard bank statements they (KPD fiscal department) noticed that there were no transactions (payments) charged to their Pcard and so they contacted Ricoh to let them know that they were not being charged for the use of the copying machines and as a result of that phone call, Ricoh then went back and conducted its own</p>	

SUBJECT	DISCUSSION	ACTION
	<p>review and a week later they (Ricoh) contacted KPD's fiscal department to tell them that they had mistakenly applied another department's payments to KPD's accounts, but when reversing those charges instead of applying the charges like they normally would (which is each transaction per contract) they made a lump sum payment which went through all at one time. She added that although Ricoh had the authorization to do so they inadvertently billed KPD for the full amount of back pay.</p> <p>Vice Chair Bahouth asked if the Pcard can be used for the recurring charges to which Ms. Arruda replied it can be, noting that KPD authorizes each invoice for the ten copying machines on a monthly basis. Chair Hertog thanked everyone involved for taking the steps to correct the problem at the County Council level.</p> <p>Mr. Barreira stated there are safe guards that are imbedded within the policy and procedures which is adhered to, but as Ms. Arruda just explained the incident was kind of a blind alley in terms of them (Ricoh) having the authorization to draw against the Pcard. Normally, with those ten (10) different copiers KPD have all ten are procured pursuant to the price list that is in place through the State procurement office and so each copier constitutes a different invoice which would then constitute a separate payment all of which are under a \$1500.00.</p> <p>Chair Hertog asked if they do detect someone abusing their Pcard can she assume that the individual would have to give up their Pcard and HR sanctions can be levied against the individual to which Ms. Barreira replied it could become a matter of discipline, as of right now, discipline for Pcard abuse is managed by the Pcard Administrator in the accounting division, but any procurement violations that occur would involve due process where he would conduct an investigation and based on his findings impose the recommended discipline that is referred to the department and the removal of the individual's Pcard is a possibility for abuse that is deemed proper.</p>	

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	<p>Chair Hertog asked whether the individual would be liable monetarily for using the Pcard in an unauthorized way to which Mr. Barreira replied it depends on the amount. For example, under the procurement code, the reason why he has to investigate the violation is because the law differentiates between intentional abuse and unintentional abuse. It is a misdemeanor to intentionally evade the requirements of the procurement code. In more than 160 investigations he has done, he has not found intentional abuse a single time it usually relates to an inadvertent error, but if it was intentional the person would be subject to prosecution which would be referred to the Office of the County Prosecutor. As far as paying back the money there are some protections within Chapter 76 whereas, the employee would not necessarily be subjected to a financial penalty, but could be incorporated as part of discipline if it goes that route.</p> <p>With no further comments or questions, Chair Hertog move to the next agenda item.</p>	
<p>Powerpoint Presentation by KPD's Forensic DNA Crime Scene Expert Stephanie Regan</p>	<p>Crime Scene Specialist Stephanie Regan gave an overview of what her job entails and the expansion of capabilities in the realm of DNA, namely the Para-DNA presumptive screening system that the Department incorporated in May of last year, then answered questions.</p> <p>Chair Hertog asked if there are other police officers being trained to utilize the system or is she the only one to which Ms. Regan replied the Department has three (3) officers who are trained to utilize the system, but she is the primary operator of the system and the only one who can look deeper into the data to see if it has the potential for further analysis.</p> <p>Mr. Mince asked if the Para-DNA would hold up in court to which Ms. Regan replied as of right now, she cannot give him a definitive yes or no because the only way to do that is to go to court with it. It hasn't gone to court in their circuit, but they have done every trending factor to make it appear that it would have success in the court system. She added relative to the new forensic technologies once it reaches the stage of popularity in Europe it would transition to Canada, and if successful in the Canadian courts, then it would trickle down to the United States, which is where the U.S. is at right now. There's quite a few of departments throughout the nation that have already started utilizing the system and have gone to court with the exception of Hawai'i, once when that happens, she'll be able to give him a definitive answer.</p>	

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	<p>Mr. Morita asked if funding has ever been an issue to which A/C Ponce replied yes, explaining that a homicide case can run anywhere between \$10,000 (low end) up to \$50,000. And with a budget of \$30,000 for DNA analysis the Para-DNA system really helps the Department to be able to analyze more cases. Mr. Morita commented it’s such an important part of the puzzle and he would hate to see the Department not be able to run the test because of a lack of funding. Ms. Regan stated Chief Perry as well as A/C Gausephol have been instrumental in fighting for expansions of the budgetary side of the DNA side.</p> <p>Vice Chair Bahouth asked with the amount already budgeted does the Department let that dictate what it should investigate or does the Department investigate what it should investigate even if it means going over the budget to which A/C Ponce replied both, because obviously someone has to pay for it. But when it comes to a homicide case and there’s 200 items that may have to be analyzed for DNA, the Department would work with the Prosecutor for them to give the Department a guide as to what items are the most probative to send out for testing. Vice Chair Bahouth asked what about sexual assault cases; does the budget come into play as well to which A/C Ponce replied when it comes to sexual assault cases, the Department has always moved forward and the budget does not come into play.</p> <p>With no further questions, Chair Hertog thanked A/C Ponce and Ms. Regan for the excellent presentation and that she looks forward to having Ms. Regan as a presenter at the Police Commissioners’ conference in May.</p>	
Chief’s Monthly Reports	<ol style="list-style-type: none"> 1. Administrative and Technical Bureau Report 2. Investigative Services Bureau – General Crimes/Major Crimes Section, Special Focus Section, Community Relations Unit and Vice Section 3. Patrol Services Bureau Monthly Activity & Traffic Section 4. Community Oriented Policing Traffic and/Districting Reports for Līhu‘e, Kawaihau and Waimea 5. Community Oriented Policing Report for Dispatch/Cellblock 6. Chief’s announcements and Pertinent Updates 	

SUBJECT	DISCUSSION	ACTION
	<p>Mr. Morita pointed out that COP Investigative Services Bureau on General Crime/Major Crime Report shows a total of seven (7) detectives, but only two (2) Detectives are assigned to investigate the cases, asking if there is a shortage of manpower to which A/C Asher replied there is only one vacancy and that is the IAC (Internet Crimes Against Children) Detective position. Mr. Morita stated with the amount of 170 total cases of which 44 were cleared cases, can only mean one thing that the work load is overwhelming, asking if there’s a solution to fill the vacancies to which A/C Asher replied during last year’s budget session, the Department asked for more positions, but unfortunately those positions were denied. However, the Department has not given up on trying to fill its vacant positions.</p> <p>Chair Hertog shared that KPD acquired the services of a company to do a workload analysis in all areas of KPD because people in the County government felt that KPD was not using their manpower wisely (which the Commission begs to differ). She stated once the analysis of the data is completed KPD will be able to predict more easily what their needs are for present and future staffing as well as establish and clarify staffing patterns. A/C Asher noted the results of the analysis should be available on 8 March 2017. Chair Hertog added once the results are in KPD can go back to the Council or the Mayor and say that a third-party not associated with island but an expert in this area came forward and said this is what KPD needs are based on the workload and crime statistics and what they require the officers to do in relation to the number of patrol responses etc. Chair Hertog asked A/C Asher that once the results comes back to let the Commission know so they can have the out brief as well.</p> <p>Mr. Mince asked A/C Asher to clarify what a traffic safety monitor position is and if there’s an actual job description for the position to which A/C Asher explained that KPD is in the process of transitioning the school crossing guard position into a traffic safety monitor position because it’s a State mandate. Mr. Mince stated he understands that, asking why is the traffic safety monitor position still listed in the report. Chair Hertog stated she doesn’t know if KPD was going to include all of the school crossing guards because from she understood KPD was going to maintain some of those positions based on her conversation with Deputy Chief of Police Michael Contrades.</p>	

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	<p>A/C Gausephol explained that KPD is in the process of moving school crossing guard position to traffic safety monitor positions because the law (HRS) does not recognize the school crossing guard position it recognizes traffics safety monitor position. He explained further that by making the transition, the traffic safety monitor would have much more functionalities. In other words, the positions are allocated but KPD cannot fill those positions yet.</p> <p>Mr. Mince stated so there is no job description for a traffic safety monitor to which A/C Gausephol to his knowledge the position has been submitted but he doesn't think it's complete. As for the one remaining school crossing guard position, KPD is trying to reallocate that position to a police officer position. Mr. Mince asked if the traffic safety monitor position is a sworn in position to which A/C Gausephol replied it's consider more like a cadet position whereas, the person will be traveling to the different schools to make sure that traffic in that area is safe, and if there's a problem all he or she has to do is call the patrol unit and enforcement will be done.</p> <p>Chair Hertog asked if the traffic safety monitor would have the authority to issue citations to which A/C Gausephol replied he doesn't think so based on a ruling that was made. Chair Hertog asked A/C Gausephol if he could provide the Commissioners with a copy of the job description since it's still in its development stage. Vice Chair Bahouth added if anything it probably would have to be vetted through Human Resources for approval to which A/C Gausephol replied that is correct.</p> <p>Chair Hertog stated to her knowledge Mayor Carvalho was already briefed on the issue and she thinks that he supports the change, but from what she recalls some of the County Councilmembers had concerns about the pay scale for these individuals and how old he or she is going to be because the idea of paying an 18 or 21 year old \$50,000 a year just to call a police officer to write a citation was a concern for Council, asking if the issue has been ever resolved to which A/C Gausephol replied to his understanding the issue is still being worked on and nothing has been finalized.</p>	

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	<p>Ms. Adams asked how the Spillman software records management system is coming along to which A/C Gausephol replied like all transitions there’s bound to a few glitches along the way but overall, he thinks everything is coming along very well.</p> <p>With no further discussion, Chair Hertog moved to the next agenda item.</p>	
<p>Business KPC 2016-17</p>	<p><u>Report by the Permitted Interaction Group (PIG) in its recommendations to host the 2017 State of Hawai‘i Police Commissioners’ Conference on Kaua‘i. (On-going)</u></p> <p>Ms. Omo reported based on the preliminary head count of the attendees the room count would have to be reduced to 20 rooms (must guarantee 18 rooms) instead of original 30 rooms. Vice Chair Bahouth added that there’s an attrition clause in the contract and when both he and the Chair met with Marriott people they told them that the Commission did not want to be responsible for the rooms from the front and the back end. Ms. Omo added that Corlis Chang has agreed to attend and she’s working on trying to get SHOPO President Tenari Maafala to attend as one of the guest speakers.</p> <p>Chair Hertog announced that the conference is set for May 11 & 12 and would like the Commissioners to attend (if possible) for those two days. It’s probably going to be a pretty lively discussion and she wants to have the chiefs meeting earlier in the day and expand it to 90 minutes instead of the regular 60 minutes that way everyone will know a chance to which new legislative bills have passed relating to police departments and commission. In addition, Chair Hertog stated she is thinking about extending the invitation to State Senator Will Espero as well.</p> <p>With no further discussion, Chair Hertog moved to item KPC 2016-18.</p>	
<p>KPC 2016-18</p>	<p><u>Report by the Permitted Interaction Group (PIG) on its recommendations to revise the Chief of Police Performance Evaluation Form to include providing the Chief with feedback as it relates to his performance evaluation and probationary period for the new police chief.</u></p>	

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	<p>Mr. Mince reported that the PIG ran its suggested performance appraisal and on-going semi-annual by Chief Perry and HR Director Janine Rapozo as well as the Commissioners for comments. Ms. Rapozo has accepted both suggestions and has adopted it as a County form and the suggestions have been included in the revisions to the Commission's Administrative rules along with the process requirements based on and based everyone's input there will be no probationary period for the Chief of Police.</p> <p>With no further discussion, Chair Hertog move to item KPC 2017-01.</p>	
<p>KPC 2017-01</p>	<p><u>Discussion on adding two new rules to the Kaua'i County Police Commission Rules on Administrative Practice and Procedure as it relates to an organizational history for the Chief's evaluation and a probationary period for the new police chief. (On-going)</u></p> <p>Mr. Mince reported this dove tails on the discussion the Commission had last month. It was a group consensus not to have a probationary period for the Chief of Police; a new rule was written into the Commission's current rules to indicate that there will be no probationary period for the chief. Also, the process for rating the chief for the first 12 months and then moving the chief's evaluation to January through December to coincide with the goal period; all of that was included into the rules and was sent to all of the Commissioner's for comments through Mercedes and those comments were built back into the rules which has been finalized and submitted to Chair Hertog via Mercedes.</p> <p>Chair Hertog asked Ms. Omo to explain how the process works to getting the amended rules out to the public for comments. Ms. Omo explained that if the amendments to the Commission's rules are approved by the Commissioners today, a Notice of Public Hearing would have to be published in the Garden Island Newspaper thirty (30) days (March 28) before the actual public hearing on April 28th, the next Commission's meeting. Once the public has had the chance to testify and no additional changes are made to the rules, Chair Hertog would need to call for a motion to close the public hearing and at the next Commission's meeting on May 26, the Commission would then have to vote to adopt the rule amendments, which she will prepare five signed original documents to be transmitted to the Office of the County Clerk for transmittal over</p>	

SUBJECT	DISCUSSION	ACTION
	<p>to the Office of the Lieutenant Governor for recording.</p> <p>With no further discussion, Chair Hertog move to item KPC 2017-06.</p>	
KPC 2017-06	<p><u>Discussion on the Police Department's budgetary goals for FY 2017-2018 and related matters.</u></p> <p>A/C Gausephol reported KPD's meeting with Mayor Carvalho went well and the few items they asked for including new vehicles most of it were approved. Going into March when a lot of the items starts to get solidified, Chair Hertog she would like to have Deputy Chief Contrades brief the Commission at the next meeting. A/C Gausephol noted normally KPD would present a flat budget with some additional items. Vice Chair Bahouth asked if additional staff were included the KPD's proposed budget, particularly a groundskeeper to main the area around the facility and a budget to do capital improvements to maintain the facility to which A/C Gausephol replied basically, there is no maintenance program for the building and it hasn't been up kept for quite some time now. If something breaks down they would normally call the County's maintenance crew and someone would come out to fix the problem, but that in itself could take months to happen, noting that KPD's facility is one of the County's main assets so something needs to be done to make the facility a top priority.</p> <p>With no further discussion, Chair Hertog moved on to item KPC 2017-05.</p>	
KPC 2017-05	<p><u>Report by the Permitted Interaction Group (PIG) on creative financing for the recovery of costs for services provided by the Kaua'i Police Department.</u></p> <p>Vice Chair Bahouth reported that both he and Mr. Mince had the task of finding creative ways to recoup the cost for certain police services such as a DUI arrest and so forth, so they met with Deputy Chief Michael Contrades and he did an analysis on the amount DUI arrests and traffic citations that were given out. He stated the Counties does receive any of monies from the State to do these types services which happens mostly on state highways and with understanding of that, Mr. Mince put together some ideas and both he and Mr. Mince presented those ideas to the Mayor who recommended that they take those ideas and set up a meeting with Council Chair Mel Rapozo and Public Safety Chair Joann Yukimura to get their concurrence (which they did). The</p>	

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	<p>next step is to meet with the County Attorney to get his opinion and to figure out a way to make it happen and perhaps bring the matter up at the Police Commissioners’ conference in May to get their input as well. Vice Chair Bahouth added that Hawai‘i is the only state that does not have this type of program.</p> <p>Deputy County Attorney Peter Morimoto stated that he prepared a memo for Deputy Chief Contrades regarding some of the questions posed relating to the legality of some of the proposals and would like to take up the matter in Executive Session for further discussion.</p> <p>Chair Hertog stated based on Mr. Morimoto’s advice that the Commission continue its discussion in Executive Session, she would like to call on Vice Chair Bahouth to cite the Hawai‘i Revised Statutes to bring the meeting into Executive Session.</p>	<p>Ms. Adams moved to have Vice Chair Bahouth cite the Hawai‘i Revised Statutes to bring the meeting into Executive Session, as it relates to item KPC 2017-05. Vice Chair Bahouth seconded the motion. The motion carried 5:0.</p>
Announcements	Next monthly meeting – Friday, March 24, 2017, at 9:00 a.m. at the Mo’ikeha Building, Meeting Room 2A/2B. Executive Session to follow.	
Executive Session ES KPC 2017-004	<p>At 10:25 a.m. Vice Chair Bahouth read the Hawai‘i Revised Statutes to take the meeting in Executive Session.</p> <p>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve the Executive Session minutes of January 27, 2017, and to consult with its attorney on issues pertaining to the Commission’s powers, duties, privileges, immunities, and/or liabilities as they may relate to this agenda item.</p>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2017-005	<p>Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to dismissal, or discipline of an employee or officer of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission's and the County's powers, duties, privileges, immunities, and/or liabilities as they may relate to the following agenda item:</p> <p><u>ES KPC 2017-005</u> Chief Perry's monthly report on the status of the Department's disposition on formal notarized complaints that were filed with the Police Commission and forwarded to the Office of the Chief for further review plus a verbal brief on any significant adverse incidents/events that could potentially impact the County, Commission and KPD.</p> <p>Chair Hertog called for a motion to enter into Executive Session.</p>	<p>Ms. Adams moved to enter into Executive Session. Mr. Morita seconded the motion. The motion carried 5:0.</p> <p>At 10:28 a.m. the Commission moved into Executive Session.</p>
Return to Open Session to ratify the actions taken in Executive Session	<p>At 11:25 a.m. the Commission reconvened in Open Session. Chair Hertog called for a motion to modify the PIG instead Commissioners Bahouth and Mince to add Chair Hertog as the third member.</p> <p>Chair Hertog called for a motion to ratify the actions taken in Executive Session.</p>	<p>Mr. Mince moved to add Chair Hertog to the PIG on the recovery of costs. Ms. Adams seconded the motion. The motion carried 5:0.</p> <p>Ms. Adams moved to ratify the actions taken in Executive Session. Mr. Mince seconded the motion. The motion carried 5:0.</p>

SUBJECT	DISCUSSION	ACTION
		ES KPC 2017-004: A motion carried 5:0 to approve the Executive Session meeting minutes of January 27, 2017. ES KPC 2017-005: (On-going)
Adjournment	With no further business to conduct, Chair Hertog called for a motion to adjourn the meeting.	Ms. Adams moved to adjourn the meeting. Mr. Morita seconded the motion. The motion carried 5:0. At 11:25 a.m. the meeting adjourned.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Mary K. Hertog, Chair

(x) Approved as circulated on March 24, 2017

() Approved as amended. See minutes of _____ meeting.